

according to APCC, SWBT does not indicate to what extent it has modified its security procedures to ensure that its payphone service personnel who may have direct access to SWBT's automated service order system will not also have access to CPNI of PSPs.¹³⁹ Further, APCC argues that, because the existing tariffed semi-public service is being terminated pursuant to section 276, SWBT's payphone personnel have no more right to obtain access to and use the CPNI of semi-public service customers than any other PSP.¹⁴⁰ Thus, APCC maintains that SWBT should be required to disclose how it will provide, in a neutral fashion, notice of the imminent changes to semi-public customers and how it will provide those customers an opportunity to authorize disclosure of CPNI on a nondiscriminatory basis to interested PSPs, without preference to SWBT's own payphone division.¹⁴¹ In reply, SWBT maintains that its payphone personnel will not have access to the CPNI of independent PSP payphone customers.¹⁴²

53. In providing payphone services, SWBT must comply with the Commission's pre-existing *Computer III* CPNI requirements, to the extent that they are consistent with section 222 of the Communications Act, and any regulations adopted by the Commission pursuant to section 222. In its CEI plan, SWBT represents that it will comply with section 222 and all CPNI requirements adopted in the Commission's CPNI rulemaking proceeding. Accordingly, we find that SWBT's plan comports with CPNI requirements. In reaching this conclusion, we do not address the various issues raised by APCC relating to the current customers of semi-public payphone service. Issues relating to the interpretation of section 222, and how it relates to the *Computer III* CPNI rules, are being addressed in the CPNI rulemaking, and therefore will not be considered here. We do, however, reject APCC's request that we require SWBT to inform site owners about competitive options for semi-public payphone service, because no such requirement was adopted in the *Payphone Order* or in the *Reconsideration Order* or is otherwise required by our CEI rules.

2. Network Information Disclosure

54. The *Payphone Order* requires SWBT to disclose to the payphone services industry information about network changes and new network services that affect the interconnection of payphone services with its network.¹⁴³ SWBT must make that disclosure at the "make/buy" point, that is, when SWBT decides whether to make or to procure from an unaffiliated entity any product whose design affects or relies on the network interface through

¹³⁹ APCC at 24.

¹⁴⁰ *Id.* at 24.

¹⁴¹ *Id.* at 25.

¹⁴² SWBT Reply at 32.

¹⁴³ *Payphone Order* at para. 206.

which a PSP interconnects with SWBT-public switched network.¹⁴⁴ SWBT must provide that information to members of the payphone services industry that sign a nondisclosure agreement, within 30 days after the execution of such nondisclosure agreement.¹⁴⁵ SWBT also must publicly disclose technical information about a new or modified network service twelve months prior to the introduction of that service.¹⁴⁶

55. In the *Payphone Order*, the Commission waived the notice period for disclosure of network information relating to "basic network payphone services" in order to ensure that payphone services are provided on a timely basis consistent with the other deregulatory requirements of that order.¹⁴⁷ Pursuant to this waiver, network information disclosure on the basic network payphone services must have been made by the BOCs no later than January 15, 1997.¹⁴⁸

56. SWBT maintains that the interconnection between PSPs and the underlying basic services supporting SWBT's basic payphone service offering will be achieved through an existing network interface (COPTS line) and a new network interface (SmartCoin line).¹⁴⁹ As described above, consistent with the requirements of the *Payphone Order*, SWBT made the necessary network disclosure for its new network interface on January 15, 1997.¹⁵⁰ We find therefore that SWBT's CEI plan comports with the Commission's network information disclosure requirements.

3. Nondiscrimination Reporting

57. The *Payphone Order* requires BOCs to comply with the *Computer III* and *ONA* requirements regarding nondiscrimination in the quality of service, installation, and maintenance.¹⁵¹ Specifically, BOCs are required to file the same quarterly nondiscrimination reports, and annual and semi-annual ONA reports, with respect to their basic payphone

¹⁴⁴ *Phase II Order*, 2 FCC Rcd at 3086, para. 102.

¹⁴⁵ *Id.* at 3091-3093, paras. 134-140.

¹⁴⁶ *Id.* at 3092, para. 136. We note that under the Commission's rules, if a BOC is able to introduce the service within twelve months of the make/buy point, it may make public disclosure at the make/buy point. It may not, however, introduce the service earlier than six months after the public disclosure.

¹⁴⁷ *Payphone Order* at para. 146.

¹⁴⁸ *See id.*

¹⁴⁹ SWBT CEI Plan at 20.

¹⁵⁰ *See note 55 supra.*

¹⁵¹ *Payphone Order* at para. 207.

services that they file for other basic services to ensure that the BOCs fulfill the commitments made in their CEI plans with respect to the nondiscriminatory provision of covered service offerings, installation, and maintenance.¹⁵²

58. SWBT contends that its payphone service operations will not be given any preference or priority treatment nor will its payphone operations have access to systems supporting basic service order entry, installation, maintenance, or repair functions unless such access is also made available to other PSPs on nondiscriminatory terms and conditions.¹⁵³ SWBT asserts that it will continue to abide by the Commission's existing nondiscrimination reporting rules which require BOCs to file quarterly installation and maintenance and nondiscrimination reports. Further, SWBT represents that it will incorporate into such reports data regarding SWBT's provision of basic payphone services.¹⁵⁴ We find that SWBT's CEI plan comports with the Commission's nondiscrimination reporting requirements.

C. Accounting Safeguards

59. In the *Payphone Order* and the *Accounting Safeguards Order*, the Commission concluded that it should apply accounting safeguards identical to those adopted in *Computer III* to BOCs providing payphone service on an integrated basis.¹⁵⁵ Pursuant to *Computer III*, the BOCs must adhere to certain accounting procedures to protect ratepayers from bearing misallocated costs. These safeguards consist of five principal elements: 1) the establishment of effective accounting procedures, in accordance with the Commission's Part 32 Uniform System of Accounts requirements and affiliate transactions rules, as well as the Commission's Part 64 cost allocation standards; 2) the filing of CAMs reflecting the accounting rules and cost allocation standards adopted by the BOC; 3) mandatory audits of carrier cost allocations by independent auditors, who must state affirmatively whether the audited carriers' allocations comply with their cost allocation manuals; 4) the establishment of detailed reporting requirements and the development of an automated system to store and analyze the data; and 5) the performance of on-site audits by Commission staff.¹⁵⁶ We note that the approval

¹⁵² See *Payphone Order* at para. 207; *BOC ONA Reconsideration Order*, 5 FCC Rcd 3084, 3096, Appendix B (1990), *BOC ONA Amendment Order*, 5 FCC Rcd 3103 (1990), *Erratum*, 5 FCC Rcd 4045, *pets. for review denied*, *California II*, 4 F.3d 1505 (9th Cir. 1993), *recon.*, 8 FCC Rcd 7646 (1991), *BOC ONA Second Further Amendment Order*, 8 FCC Rcd 2606 (1993), *pet. for review denied*, *California II*, 4 F.3d 1505 (9th Cir. 1993); and *Phase II Order*, 2 FCC Rcd at 3082, para. 73; and *Filing and Review of Open Network Architecture Plans*, CC Docket No. 88-2, *Memorandum Opinion and Order*, Phase I, 6 FCC Rcd 7646, 7649-50 (1991).

¹⁵³ SWBT CEI Plan at 19.

¹⁵⁴ *Id.*

¹⁵⁵ *Payphone Order* at paras. 157, 199, 201; *Accounting Safeguards Order* at para. 100.

¹⁵⁶ *BOC Safeguards Order*, 6 FCC Rcd at 7591, para. 46.

granted to SWBT in this Order is contingent upon the CAM amendments associated with SWBT's provision of payphone service going into effect.¹⁵⁷

D. Other Issues

1. Sufficiency

60. APCC and Telco generally assert that SWBT's CEI plan insufficiently describes how SWBT intends to comply with the CEI requirements; therefore, these parties request that the Commission require SWBT either to amend or refile its plan.¹⁵⁸ As discussed above, however, we find that SWBT adequately complies with each of the required parameters.

2. Tariffing Issues

61. APCC alleges that SWBT is not pricing its COPTS and SmartCoin features at cost-based rates as the *Payphone Order* requires and, therefore, that SWBT must be required to disclose the cost methodologies used to develop its COPTS and SmartCoin services.¹⁵⁹ In reply, SWBT claims that complaints about its tariffed rates and costing methodologies are not relevant to a determination of whether SWBT's CEI plan should be approved. State rate and costing issues, SWBT maintains, will be decided before the various state commissions and federal tariff rates and costing methodologies will be decided by the Commission.¹⁶⁰

62. We agree with SWBT that the state and federal payphone tariff proceedings are the appropriate fora to address whether tariffed rates are cost-based and non-discriminatory. The Commission stated in the *Reconsideration Order*, that it would "rely on the states to ensure that the basic payphone line is tariffed by the LECs in accordance with the requirements of [s]ection 276."¹⁶¹ That order required that the tariffs for these LEC services must be: (1) cost based; (2) consistent with the requirements of section 276 with regard, for example, to the removal of subsidies from exchange and exchange access services; and (3) nondiscriminatory.¹⁶² In addition, the order established that "[s]tates must apply these

¹⁵⁷ See SWBT March 19 *Ex Parte* at 2 (stating that SWBT filed its CAM on February 14, 1997).

¹⁵⁸ APCC at 1-3; Telco at 1-3.

¹⁵⁹ APCC at 10-11.

¹⁶⁰ SWBT Reply at 12.

¹⁶¹ *Reconsideration Order* at para. 163.

¹⁶² *Reconsideration Order* at para. 163; see also *id.* at n.492 (noting that the "new services test required in the *Report and Order* is described at 47 C.F.R. Section 61.49(g)(2)").

requirements and the *Computer III* guidelines for tariffing such intrastate services."¹⁶³ The order further stated that "[w]here LECs have already filed intrastate tariffs for these services, states may, after considering the requirements of this order, the *Report and Order*, and section 276 conclude: 1) that existing tariffs are consistent with the requirements of the *Report and Order* as revised herein; and 2) that in such case no further filings are required."¹⁶⁴ Finally, the Commission noted that "[s]tates unable to review these tariffs may require the LECs operating in their state to file these tariffs with the Commission."¹⁶⁵ Similarly, we find that the objections to the rates in SWBT's federal tariff appropriately are raised in this Commission's tariff proceeding where, in fact, APCC has filed a petition challenging SWBT's rates.¹⁶⁶

3. Screening Codes

63. APCC and MCI contend that SWBT is required, pursuant to the *Reconsideration Order*, to provide PSPs using COPTS lines with screening digits that uniquely identify their lines as payphone lines.¹⁶⁷ APCC asserts that if SWBT transmits a unique screening code only on its SmartCoin lines, which is primarily used by SWBT's own payphone division, and not on its COPTS lines, which are primarily used by PSPs, SWBT is discriminating in favor its payphone division by providing it a great advantage in the collection of per-call compensation from IXCs. In addition, MCI maintains that SWBT's plan does not provide screening code digits that can be "transmitted by PSPs for all access methods and from all locations."¹⁶⁸

64. In reply, SWBT asserts that the transmission of screening code digits does not fall under any of the CEI plan requirements or other nonstructural requirements under

¹⁶³ *Reconsideration Order* at para. 163.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ Petition of APCC to Reject, or Alternatively, to Suspend and Investigate, Proposed Tariff Revisions in SWBT Transmittal No. 2608, filed February 10, 1997. See also Petition of MCI to Reject, or Alternatively, to Suspend and Investigate, Proposed Tariff Revisions in SWBT Transmittal No. 2608, filed February 10, 1997.

¹⁶⁷ APCC at 19-21; MCI at 1-2. Screening code digits allow interexchange carriers (IXCs) to track payphone calls for the purpose of paying per-call compensation to LECs. As APCC states, "with a unique screening code, the IXC knows immediately that a call is compensable, and should not have to take any further steps in order to calculate the compensation due for each particular ANI invoiced by an [independent PSP]." APCC at 21.

¹⁶⁸ MCI at 3. MCI maintains that, for example, LECs "do not provide automatic number identification or information digits with feature group B access and from non-equal access areas." Accordingly, argues MCI, "PSPs would not be able to transmit specific payphone coding digits from payphones in these circumstances and, therefore, they would not be eligible for compensation." *Id.*

*Computer III.*¹⁶⁹ Nevertheless, SWBT recognizes that pursuant to the payphone rulemaking proceeding, it must transmit screening code digits to allow IXC's to track payphone calls for the purpose of paying compensation. SWBT contends that SmartCoin lines, including those used by SWBT, will transmit a "27" screening code indicating to IXC's that the originating line is a LEC payphone, and all COPTS lines, including those used by SWBT, will transmit an "07" screening code indicating to the IXC that the originating line requires special operator handling. SWBT explains that a screening code discretely identifying the COPTS line as a payphone line will be provided to IXC's through the use of SWBT's Line Information Data Base (LIDB).¹⁷⁰

65. We find that the issue of whether SWBT is providing screening information in compliance with the requirements established in the payphone rulemaking proceeding to be outside the scope of the CEI review process and is more appropriately raised in that proceeding or in other proceedings.¹⁷¹

4. Numbering Assignments

66. According to APCC, the *Payphone Order* requires LEC's to assign line numbers to payphones on a nondiscriminatory basis.¹⁷² It contends that SWBT's CEI plan is deficient in that it does not describe its number assignment policy or how that policy will be applied to SWBT's payphone operation and other PSPs.¹⁷³ For example, APCC maintains that SWBT should be required to reallocate the numbers assigned to the existing base of payphones, without charge, so that an equal percentage of LEC payphones and PSPs are assigned 8000 and 9000 series numbers.¹⁷⁴ In reply, SWBT asserts that it presently assigns new payphone

¹⁶⁹ SWBT Reply at 25-26.

¹⁷⁰ *Id.* at 28.

¹⁷¹ See, e.g., *Policy and Rules Concerning Operator Service Access and Pay Telephone Compensation*, CC Docket No. 91-35, CCB/CPD File Nos. 96-18, 96-25, and 96-32, *Memorandum Opinion and Order*, DA 96-2169 (Com. Car. Bur. rel. Dec. 20, 1996) at 2 n. 7 (citing MCI petition for clarification of LEC's obligation to provide screening code digits and stating that MCI's petition would be addressed in a subsequent order). The Commission declined to require PSPs to use COCOT lines to secure such digits. We note that in its *Reconsideration Order*, the Commission stated that, once per-call compensation becomes effective, "[e]ach payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line." *Reconsideration Order* at para. 64. That order further required that "all LECs must make available to PSPs, on a tariffed basis, such coding digits as part of the ANI for each payphone." *Id.*

¹⁷² APCC at 18 (citing *Payphone Order* at para. 149).

¹⁷³ *Id.* at 18-19.

¹⁷⁴ *Id.* at 18-19 n.14. APCC states that assignment of numbers in the 8000 to 9000 range provides a distinct advantage in the prevention of fraud by alerting overseas operators to refrain from completing collect calls to such numbers.

numbers randomly to both its own payphone operations and to other PSPs and does not prefer or discriminate in making such assignments.¹⁷⁵

67. We agree with APCC that the *Payphone Order* requires LECs to provide numbering assignments on a nondiscriminatory basis; it did not, however, require LECs to reallocate existing number assignments.¹⁷⁶ SWBT represents that it presently assigns payphone numbers on a nondiscriminatory basis. We conclude that no further showing is required by SWBT in the context of this CEI plan.

5. Dialing Parity

68. MCI also asserts that SWBT does not explain how it will comply with the dialing parity requirement in the *Payphone Order*, including access to operator services, directory assistance, and directory listings.¹⁷⁷

69. The *Payphone Order* concluded that the dialing parity requirements adopted pursuant to section 251(b)(3) of the Communications Act should extend to all payphone location providers.¹⁷⁸ The Commission stated that such dialing parity for payphones should be implemented at the same time as dialing parity for other telephones.¹⁷⁹ SWBT must, of course, comply with these requirements. We conclude, however, that SWBT is not required as part of the CEI process to demonstrate how it will comply with the dialing parity requirement. The Commission specified in the *Payphone Order* that the BOC's CEI plan describe how it will conform to the CEI requirements with respect to the specific payphone services it intends to offer and how it will unbundle those basic payphone services.¹⁸⁰ We find MCI's request that SWBT detail how it intends to comply with the dialing parity requirement, therefore, to be beyond the scope of this CEI review proceeding.

6. Uncollectibles

70. AT&T asserts that SWBT must explain its treatment of uncollectibles due to fraud. AT&T contends that, to the extent SWBT establishes a policy of foregoing uncollectibles due to fraud for its payphone service affiliates, the same treatment must be

¹⁷⁵ SWBT Reply at 25.

¹⁷⁶ *Payphone Order* at para. 149.

¹⁷⁷ MCI at 3.

¹⁷⁸ *Payphone Order* at para. 292.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at para. 203-04.

accorded to non-affiliates.¹⁸¹ In reply, SWBT asserts that all "bad debt" will be recorded solely in SWBT's payphone operations accounts, which will be entirely responsible for the loss.¹⁸² According to SWBT, the only funding to SWBT's payphone operations will come from payphone revenue.¹⁸³ We find that, while the *Payphone Order* generally requires that fraud protection must be available on a nondiscriminatory basis, it does not establish any specific requirements for uncollectibles. Because the issue of the treatment of uncollectibles appears to raise principally accounting matters, that issue will be addressed in the review of SWBT's CAM.

7. Operator Services

71. APCC contends that SWBT's CEI plan fails to address whether SWBT's operator services are part of its deregulated payphone services.¹⁸⁴ If SWBT's operator services are regulated, APCC claims that SWBT must demonstrate that it is not subsidizing its payphone operations or discriminating between its payphone operations and other PSPs in the provision of these services. For example, if SWBT is offering a commission to its payphone operations for presubscribing its payphones to SWBT's operator services, then such commissions must also be available to independent PSPs on the same terms and conditions.¹⁸⁵ SWBT responds that its operator services are regulated and will be offered to affiliated and nonaffiliated PSPs on a nondiscriminatory basis.¹⁸⁶ Further, SWBT asserts that it presently offers a commission plan to independent PSPs for operator services and intends to make the same commission arrangement available to its own deregulated payphone operations.¹⁸⁷ We note that, in the *Reconsideration Order*, the Commission declined to require LECs to make available, on a nondiscriminatory basis, any commission payments provided to their own payphone divisions in return for the presubscription of operator service traffic to the LEC, because the Commission concluded that the level of 0+ commissions paid pursuant to contract on operator service calls was beyond the scope of section 276 and the *Payphone* proceeding.¹⁸⁸ We conclude therefore that SWBT has sufficiently addressed the concerns raised by APCC.

¹⁸¹ AT&T at 4.

¹⁸² SWBT Reply at 18.

¹⁸³ *Id.*

¹⁸⁴ APCC at 22-23.

¹⁸⁵ *Id.* at 22.

¹⁸⁶ SWBT Reply at 22-23.

¹⁸⁷ *Id.*

¹⁸⁸ *Reconsideration Order* at para. 52.

8. Inmate Calling Services Issues

72. The Inmate Calling Service Provider Coalition (ICSPC) and AT&T raise a number of issues related to the provision of inmate calling services (ICS). ICSPC and AT&T contend that SWBT should be required to identify the network support and tariffed services its regulated operations will provide to its ICS operations.¹⁸⁹ ICSPC also argues that SWBT must disclose whether its regulated operations will provide its ICS operations with inmate call processing and call control functions, information for fraud protection, and the validation of called numbers.¹⁹⁰ ICSPC contends that such services or information must be provided to other carriers on a nondiscriminatory basis. More specifically, to ensure that SWBT is not treating its affiliated inmate payphones differently than the inmate payphones of other PSPs, AT&T suggests that the Commission should require SWBT to set forth in its CEI plan and tariffs the network-based functionalities for inmate payphones that are currently available and make them available to all PSPs at the same rates, and under the same terms and conditions.¹⁹¹ According to ICSPC, SWBT's failure to describe its provision of ICS in detail prevents the Commission from determining whether SWBT has complied with the requirements of section 276.¹⁹² In addition, ICSPC asserts that SWBT should be required to disclose whether its payphone operations will be responsible for the cost of ICS calls for which SWBT payphone operations do not receive compensation.

73. ICSPC also asserts that SWBT must show that any call processing and call control system used for its ICS is being provided on a deregulated basis, regardless of whether that system is located at a central office or at a customer premises.¹⁹³ According to ICSPC, to the extent SWBT's call processing and call control systems dedicated to ICS are located in SWBT's central offices, SWBT must provide physical or virtual collocation to other providers.¹⁹⁴ ICSPC also contends that SWBT must disclose information on interfaces between SWBT's equipment dedicated to ICS and its regulated network support services, so that other providers can utilize the same interface if they wish.¹⁹⁵

74. In a subsequent *ex parte* filing, ICSPC argues that section 276 requires the BOCs to treat collect call processing for ICS as part of their nonregulated ICS operations

¹⁸⁹ ICSPC at 2-3, 10.

¹⁹⁰ *Id.* at 10-12, 14-16, 18.

¹⁹¹ AT&T at 2-3.

¹⁹² ICSPC at 3.

¹⁹³ *Id.* at 9.

¹⁹⁴ *Id.* at 18.

¹⁹⁵ *Id.* at 19.

because collect calling is fundamental to ICS.¹⁹⁶ According to ICSPC, if a BOC's ICS operation "hands off" collect calls to its network-based operator services division for processing and that division assumes the responsibility and risk associated with billing and collecting for those calls, then the BOC is essentially providing ICS as a regulated service and is still subsidizing that service contrary to the prohibition in section 276.¹⁹⁷

75. In response to ICSPC's arguments, SWBT represents that, although it identified ICS as one of the payphone services that it offers, it did not separately discuss this service in detail because its treatment of ICS is consistent with its treatment of its other payphone services.¹⁹⁸ SWBT further asserts that its payphone operations, in providing ICS, will purchase from SWBT the same tariffed services, at the same rates, as all other PSPs.¹⁹⁹ In addition, it avers that its payphone operations do not use any network-based call control and call processing functions and therefore will not offer such services to other providers. Call control and call processing functions, SWBT explains, are provided by hardware and software owned and operated exclusively by SWBT's payphone operations. According to SWBT, this equipment is not housed in SWBT central offices but in space owned or leased solely by SWBT payphone operations. Thus, SWBT asserts, ICSPC's concern over potential collocation issues is unfounded.²⁰⁰

76. Section 276 specifically defines payphone service to include the provision of inmate telephone service in correctional institutions.²⁰¹ In the *Reconsideration Order*, we clarified that the requirements of the *Payphone Order* apply to inmate payphones that were deregulated in an earlier order.²⁰² Thus, SWBT is required to reclassify as unregulated assets all of its payphone assets related to its provision of ICS, with the exception of the loops connecting the inmate telephones to the network, the central office "coin service" used to provide the ICS, and the operator service facilities used to support the ICS.²⁰³ In addition,

¹⁹⁶ See Letter from Albert H. Kramer, counsel for APCC, to William F. Caton, Acting Secretary, FCC at 1-2 (Mar. 19, 1997).

¹⁹⁷ *Id.* at 2.

¹⁹⁸ SWBT Reply at 15-16.

¹⁹⁹ *Id.* at 16.

²⁰⁰ *Id.* at 17.

²⁰¹ 47 U.S.C. § 276(d).

²⁰² *Reconsideration Order* at para. 131 (citing *Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force*, Declaratory Ruling, 11 FCC Rcd 7362, 7373 (rel. Feb. 20, 1996) (*Inmate Service Order*); *Petitions for Waiver and Partial Reconsideration or Stay of Inmate-Only Payphones Declaratory Ruling*, Order, 11 FCC Rcd 8013 (Com. Car. Bur. 1996)).

²⁰³ See *Payphone Order* at paras. 157, 159.

SWBT is required to offer on a tariffed basis any basic payphone service or network feature used by its payphone operations to provide ICS.²⁰⁴

77. We conclude that SWBT's CEI plan comports with our CEI requirements with respect to its provision of ICS. SWBT avers that its payphone operations, in providing ICS, will purchase from SWBT the same tariffed services, at the same rates, as all other ICS providers.²⁰⁵ Although we agree with ICSPC that any call processing and call control equipment related to SWBT's provision of ICS must be reclassified as nonregulated, regardless of whether that equipment is located at a customer premises or a SWBT central office,²⁰⁶ SWBT avers that it has done so.²⁰⁷ Significantly, SWBT represents that its payphone operations do not use any network-based call control and call processing functions.²⁰⁸ More specifically, SWBT asserts its ICS will make use of SWBT operator services, which will be purchased from SWBT's state tariffs in the same manner that any other ICS provider may purchase them. Likewise, any other SWBT service, such as fraud protection and LIDB validation information, employed by SWBT's ICS operations will be purchased and offered to all PSPs on a tariffed basis.²⁰⁹ We find no support in the *Payphone Order* or *Reconsideration Order* for ICSPC's contention that SWBT is required to provide collect calling as a nonregulated service when used with inmate payphones.

78. We conclude that the other issues raised by ICSPC related to the provision of ICS either have already been addressed in this Order or are beyond the scope of this proceeding. We find that there is no requirement in the Commission's rules, and the ICSPC has cited no authority, that obligates SWBT to allow the collocation of nonaffiliated providers' call processing and call control equipment in a central office. As previously noted, the issue of the treatment of uncollectibles will be addressed in the review of SWBT's CAM.²¹⁰ Finally, with regard to the disclosure of interface information, we concluded above that SWBT's CEI plan comports with the Commission's network information disclosure requirements.

²⁰⁴ See *Payphone Order* at paras. 146-49; *Reconsideration Order* at paras. 162-63.

²⁰⁵ SWBT Reply at 16.

²⁰⁶ *Payphone Order* at paras. 157, 159. See also *Inmate Service Order*, 11 FCC Rcd at 7373.

²⁰⁷ See SWBT Reply at 16.

²⁰⁸ *Id.* at 17.

²⁰⁹ *Id.* at 18.

²¹⁰ See *infra* at 70.

9. Primary Interexchange Carrier (PIC) Selection

79. AT&T and Oncor maintain that because SWBT will soon assume a dual role as both a provider of interexchange services and the administrator of the PIC selection process, SWBT's CEI plan must address SWBT's role in the PIC selection process.²¹¹ Specifically, they contend that SWBT must describe how its PIC selection process for payphones will be performed in a nondiscriminatory manner.²¹² In its reply, SWBT contends that concerns regarding the PIC selection process are not relevant to the issue of SWBT's CEI compliance and should be handled in the enforcement process.²¹³ SWBT asserts, nevertheless, that it will handle PIC verification and changes for SWBT payphones and independent PSPs' payphones in the same manner. Thus, no payphone provider will receive preferential treatment.²¹⁴

80. We conclude that SWBT is not required as part of the CEI process to demonstrate how it will administer the PIC selection process for payphones. The Commission specified in the *Payphone Order* that the BOC's CEI plan describe how it will conform to the CEI requirements with respect to the specific payphone services it intends to offer and how it will unbundle those basic payphone services.²¹⁵ The payphone rulemaking proceeding did not require the BOCs to describe how they will administer the PIC selection process in their CEI plans, as requested by AT&T and Oncor. We find therefore that the arguments raised by parties regarding SWBT's role as PIC administrator are beyond the scope of this proceeding.

10. Subscriber-Selected Call-Rating

81. APCC contends that, in order to meet the Commission's CEI requirements, SWBT must provide a coin line service that allows independent PSPs to set the initial time

²¹¹ Oncor at 5. According to Oncor, SWBT should have described: (1) how it will manage the payphone PIC selection and order implementation process; (2) how it will ensure that all PIC orders obtained pursuant to SWBT agreements with location owners will be handled on a nondiscriminatory basis, and that all valid PIC orders and location provider agreements will be honored and will not be subject to interference by SWBT or anyone else; (3) how its marketing personnel will be trained and supervised to ensure that they do not misrepresent SWBT's role in the payphone PIC selection process; and (4) how its personnel involved in the PIC ordering and implementation processes will be trained and supervised to ensure that they do not "interfere" with the sales and marketing of interexchange services from payphones. *Id.*

²¹² AT&T at 4 (asserting that SWBT does not address how its PIC selection process for payphones will be performed in a nondiscriminatory manner); Oncor at 3 (asserting that SWBT's CEI plan does not contain provisions which will either restrain anticompetitive behavior by SWBT in its negotiations with location owners regarding interexchange services from SWBT payphones, or protect the integrity of the payphone PIC section and ordering processes).

²¹³ SWBT Reply at 29.

²¹⁴ SWBT Reply at 29-30.

²¹⁵ *Payphone Order* at para. 203-04.

period, the overtime periods, and all rates corresponding to these periods for local calls.²¹⁶ An example of an initial rate is \$0.25 for the first five minutes. An example of an overtime rate is \$0.05 for each additional three minute period after the first five minutes.²¹⁷ APCC therefore requests the Commission to require SWBT to develop a more flexible rating feature such that independent PSPs will not have to use SWBT payphone operation's preferred rates and time periods for local calls.²¹⁸ Likewise, APCC continues, SWBT should specify how directory assistance (DA) rates and rates for DA call completion are set.²¹⁹ In reply, SWBT maintains that local rates are a state matter and no state in the SWBT's region has either permitted or required local measured coin service.²²⁰ Further, SWBT asserts that it will allow PSPs to set their own rates for sent-paid DA in compliance with the Commission's requirement that states must allow PSPs to charge end-users a market-based rate for DA calls.²²¹

82. We find that the *Payphone Order* did not require the BOCs to provide to independent PSPs an unbundled call rating feature for coin line services.²²² In addition, on reconsideration of the *Payphone Order*, in response to a request that it require access to, *inter alia*, call rating capabilities,²²³ the Commission specifically declined to require further unbundling of payphone services beyond those established in the *Payphone Order*.²²⁴ As previously noted, independent PSPs may seek additional unbundling through the 120-day ONA process. The appropriate state regulatory authorities may also impose further unbundling requirements.

²¹⁶ APCC at 13.

²¹⁷ *Id.*

²¹⁸ *Id.* at 13-14.

²¹⁹ *Id.* at 14.

²²⁰ SWBT Reply at 30.

²²¹ For example, SWBT has recently amended its state tariffs to allow PSPs who subscribe to SmartCoin to set their rates for DA call completion and operator assistance charges on sent-paid calls. SWBT Reply at 30-31.

²²² *Payphone Order* at paras. 146-48. See also *Reconsideration Order* at para. 165.

²²³ On reconsideration, the New Jersey Payphone Association requested that the Commission require access to call rating capabilities, answer supervision, call tracking, joint marketing, installation and maintenance, and billing and collection. See *Reconsideration Order* at para. 155.

²²⁴ *Id.* at para. 165.

11. Operator Service Provider (OSP) Selection

83. APCC requests that the Commission require SWBT to unbundle operator services from its SmartCoin service so that PSPs may select their own operator service provider for intraLATA calls.²²⁵ APCC asserts that, under section 276, PSPs are entitled to select their OSP of choice for intraLATA calls, including local, operator-assisted calls, and therefore that, to the extent SWBT does not permit OSP selection for its SmartCoin service, its CEI plan is inconsistent with section 276.²²⁶ In reply, SWBT maintains that before subscribers to its SmartCoin service can select the OSP for intraLATA traffic, intraLATA dialing parity must be implemented.²²⁷ We find that APCC's request is beyond the scope of this proceeding, which is limited to determining whether SWBT's CEI plan complies with the Commission's *Computer III* CEI requirements.

12. Interim Compensation Scheme

84. Telco argues that apart from the numerous deficiencies in SWBT's CEI plan, the Commission should refrain from allowing SWBT or any BOC to participate in the interim compensation scheme outlined in the *Payphone Order*.²²⁸ We find that this argument is beyond the scope of the CEI review proceeding. Moreover, the interim compensation rules issue were addressed at length in the payphone rulemaking proceeding.²²⁹

13. Timing

85. APCC asserts that SWBT fails to provide any information on whether there are differences in the timing of call set-up between SWBT's COPTS lines and SmartCoin lines.²³⁰ To the extent differences exist, APCC contends that SWBT must describe these differences in detail and explain what steps it will take to equalize timing "in accordance with the

²²⁵ APCC at 14.

²²⁶ *Id.* PSPs subscribing to SWBT's basic COPTS service can already select their OSP and intraLATA carrier through programming in the "smart" payphone. SWBT Reply at 19.

²²⁷ SWBT Reply at 19. As discussed above, the dialing parity requirements established pursuant to section 251(b)(3) were extended to all payphone providers. *See supra* at para. 69.

²²⁸ Telco at 4-7.

²²⁹ *See, e.g., Reconsideration Order* at paras. 114-15 (describing the interim compensation mechanism adopted in the *Payphone Order*).

²³⁰ "Timing of call set-up" refers to the amount of time the network takes to complete the connection of a call after all of the necessary digits of a called number are entered into the telephone set.

Commission's CEI requirement."²³¹ SWBT maintains that there will be no difference in the call set-up delay between an unaffiliated PSP and SWBT's own payphone service operations, regardless of the type of basic payphone service used by the PSP.²³² We conclude that SWBT has adequately addressed APCC's concern.

14. Semi-Public Service Issues

86. APCC maintains that to the extent that SWBT's payphone operation continues to offer a "semi-public-like" payphone service that involves charging location providers for lines and usage on their payphones, SWBT must disclose how such a service will be supported by its network operations and how charges for the service will be treated on the subscriber's bill.²³³ We find these semi-public service issues to be beyond the scope of the CEI review process.

15. Taxes

87. APCC contends that SWBT does not describe its procedures for ensuring that independent PSPs and SWBT's payphone operations are taxed in the same fashion.²³⁴ We find that this concern is not within the scope of this CEI proceeding.

V. CONCLUSION

88. We conclude that SWBT's CEI plan complies with the *Computer III* requirements. Accordingly, in this Order, we approve SWBT's CEI plans to offer basic payphone service, as described herein. We also grant SWBT a waiver of the testing requirement for the provision of its SmartCoin service as described above.

²³¹ APCC at 27.

²³² SWBT April 1 *Ex Parte* at 2.

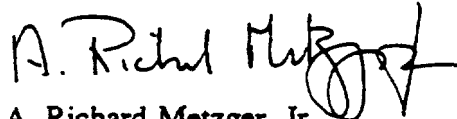
²³³ *Id.* at 26.

²³⁴ *Id.* at 27.

VI. ORDERING CLAUSE

89. IT IS HEREBY ORDERED that, pursuant to Sections 1, 4(i) and (j), 201, 202, 203, 205, 218, 222, 276 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (j), 201, 202, 203, 205, 218, 222, and 276 and authority delegated thereunder pursuant to Sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, SWBT's Comparably Efficient Interconnection Plan for the Provision of Basic Payphone Services IS APPROVED, subject to the requirements and conditions discussed herein.

Federal Communications Commission



A. Richard Metzger, Jr.
Deputy Chief, Common Carrier Bureau

BEFORE THE
STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Timothy E. McKee
Susan M. Seltsam
John Wine

In the Matter of Southwestern Bell Telephone)	
Company's Filing to Introduce SmartCoin Service and)	
Answer Supervision to the Pay Telephone Service)	DOCKET NO.
Tariff.)	97-SWBT-415-TAR

ORDER

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) on the Petition of the Kansas Payphone Association for Rehearing and Reconsideration. Having examined its files and records, and being duly advised in the premises, the Commission finds as follows:

1. On January 15, 1997, Southwestern Bell Telephone Company (SWBT) filed proposed tariffs to implement the payphone provisions of the Telecommunications Act of 1996.
2. On February 7, 1997, the Kansas Payphone Association (KPA) filed a Petition to Intervene and Motion to Suspend and Request for Hearing and Production of Data. On February 14, 1997, the Commission allowed KPA's intervention.

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2. On March 17, 1997, the tariff was approved pursuant to K.S.A. 66-117(b), with an effective date of April 15, 1997. On April 15, 1997, the Commission issued an order outlining a plan to eliminate subsidies from SWBT's payphone rates.

3. On April 28, 1997, the KPA filed a Petition for Rehearing and Reconsideration of the April 15, 1997 order. It argues (1) all payphone tariffs must be cost-based and not just those rates which were changed; (2) the rate charged for Answer Supervision is excessive; (3) the coin rate (tariffed as SmartCoin) should be based on fully allocated costs. Finally, KPA argues that the April 4, 1997 FCC order in this matter makes the Commission's April 15, 1997, order in this docket inconsistent with the Federal Telecommunications Act of 1996. KPA argues that the Commission retains jurisdiction over this issue via K.S.A. 66-117 as various changes in the tariff filing would have triggered a new 240 day time period to run, or alternatively, that the Federal Act requires the Commission to follow the payphone decisions rendered by the FCC.

4. On May 12, 1997, SWBT filed a response to KPA's Petition. SWBT argues KPA's petition filing is invalid as it does not comport with K.A.R. 82-1-219(a)(1)(6) which requires pleadings to be verified unless the Commission specifically waives this requirement.

5. SWBT argues that the petition should be denied on the merits because SWBT provided to the Commission Staff, financial analyses for all unbundled services and the access line. It argues this demonstrates its full compliance with the FCC's April 4, 1997, order in Docket CC 96-128. It argues the financial analyses

demonstrate that SWBT's existing and new tariffs were cost based and complied with the FCC's new services test. SWBT argues it has met the unbundling requirements of the FCC's recent payphone orders as evidenced by the FCC's approval of SWBT's Comparably Efficient Interconnection Plan (CEI Plan) on April 15, 1997. The CEI Plan sets forth SWBT's method for treating all payphone service providers equally. SWBT disagrees with KPA's contention that K.S.A. 66-117(b) and the Telecommunications Act of 1996 allow the Commission to retain jurisdiction over this matter. SWBT states it made one change in the filing and no changes in March as claimed by KPA. SWBT states it disagrees with KPA's interpretation of K.S.A. 66-117(b). It argues no suspension of the tariff filing was ordered after its February 14, 1997 order. It further argues the Commission's order of April 15, 1997, is not inconsistent with the Telecommunications Act of 1996 and fully complies with the relevant FCC orders including the April 4, 1997, order.

6. On May 1, 1997, the Commission received a memo from Staff concerning KPA's petition. Specifically, KPA argues all payphone tariffs be cost-based; not just newly filed rates. Staff responds the FCC order provides each unbundled payphone service be cost-based. The FCC's orders do not require that every service a payphone can take be cost-based. Staff argues KPA's opinion that SWBT's SmartCoin service be based on fully allocated costs is inconsistent with its first listed concern as well as being inconsistent with the FCC's order. Staff disagrees with KPA's opinion that SWBT's Answer Supervision service is not cost-based and argues that KPA presents no evidence to support this assertion. Staff is of the

opinion that SWBT's revised rate for this service is cost-based and non-discriminatory. Further, no supporting information is given regarding KPA's blanket statement that the Commission's April 15, 1997, order is inconsistent with the Federal Telecommunications Act of 1996. Staff has reviewed this issue and believes the Commission's April 15, 1997 order is consistent with all four of the FCC payphone orders. KPA's non tariff concerns will best addressed in the upcoming payphone generic investigation (CC Docket No. 96-128).97-KAPT-102-GIT. Staff also disagrees with KPA's interpretation of K.S.A. 66-117.

8. Staff's recommends the Petition for Reconsideration and Rehearing be denied and the non-tariff issues raised in the Petition be addressed in the upcoming generic payphone docket, 97-KAPT-102-GIT.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

The petition for Rehearing and Reconsideration filed by the Kansas Payphone Association is denied on the grounds set forth above. K.A.R. 82-1-219(a)(1)(6) provides pleadings filed with the Commission are to be accompanied by verification. No evidence of verification was included with KPA's Petition. While this petition is denied on other grounds, KPA is put on notice further pleadings will need to comply with the regulation or they will not be considered. It is noted the issues addressed above not specifically tied to this tariff filing will be addressed in Docket No. 97-KAPT-102-GIT, In the Matter of the Application of the Kansas Payphone Association Requesting the Commission Investigate and Revise the

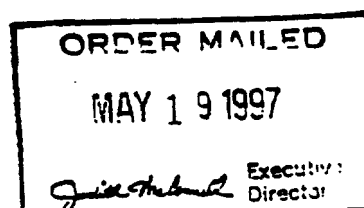
Dockets Concerning the Resale of Local Telephone Service by Independent Payphone Operators.

The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

McKee, Chmn.; Seltsam, Com., Wine, Com.

Dated: MAY 16 1997



JUDITH McCONNELL
EXECUTIVE DIRECTOR

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Timothy E. McKee, Chair
Susan M. Seltsam
John Wine

Application of Southwestern Bell)
Telephone Company to Implement the Pay)
Telephone Reclassification and) Docket No.97-SWBT-415-TAR
Compensation Provisions of the)
Telecommunications Act of 1996.)

ORDER

COMES NOW, the above captioned matter for consideration and determination by the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

1. On January 15, 1997, Southwestern Bell Telephone Company (SWBT) filed proposed tariffs to implement the pay telephone provisions of the Telecommunications Act of 1996. The provisions require all local exchange companies to establish accounting separations between their regulated telephone activities and pay telephone affiliate and file nondiscriminatory tariffs. This filing was suspended until March 17, 1997.

2. The filing did not adequately address provisions of the Federal Communications Commission's (FCC's) orders in CC Docket No. 96-128, In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Payphone docket). Specifically, the filing did not address paragraph 186 of the September 20, 1996, Report and Order.

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paragraph 193 of the November 8, 1996 Order on Reconsideration and paragraph 30 of the April 4, 1997 Order in the Payphone docket. (The text of each paragraph is included as Attachment I.)

3. These paragraphs require all incumbent LECs to remove from intrastate rates any charges that recover the costs of payphones. Revised intrastate rates must be effective no later than April 15, 1997.

4. On March 17, 1997, the tariff was approved pursuant to K.S.A. 66-117(b), with an effective date of April 15, 1997. SWBT's filing included proposed tariffs addressing certain requirements of the Payphone docket, but did not provide for removal of intrastate payphone subsidies included in other rates. The issue of how to comply with the requirement that intrastate payphone subsidies be removed from local exchange and access rates had not been resolved by March 17, 1997.

5. On February 7, 1997, the Kansas Payphone Association filed to intervene in this matter. The intervention was granted in the Commission's order dated February 14, 1997.

6. On March 6, 1997, AT&T Communications of the Southwest filed to intervene in this matter. It expressed concerns about reducing access recovery to prevent a windfall to SWBT, as well as commissions paid by the LECs to Payphone Service Providers.

7. SWBT provided Staff with the revenue requirement associated with SWBT's payphone investment, \$1,079,000. This amount is the separated revenue requirement associated with SWBT's payphone investment that is assigned to access

services. To comply with the Payphone docket orders, this investment must be removed from access charges. Staff recommended this reduction be accomplished by reducing the Kansas Universal Service Fund (KUSF) payout for SWBT by \$1,079,000, effective April 15, 1997. The Commission order dated April 10, 1997, in Docket No. 190,492-U, revising the access rate reduction as of May 1, 1997, for the first year of the phase-down of access charges for United and SWBT incorporates this reduction in the KUSF payout for SWBT. Consequently, the revenue requirement reduction is flowed through to the current access rates.

8. Staff recommends the Commission order a reduction in the KUSF payout amount for SWBT by \$1,079,000 annually and find this reduction meets the FCC's requirements in the Payphone docket orders.

IT IS THEREFORE, BY THE COMMISSION ORDERED:

The KUSF payout amount for SWBT is hereby reduced by \$1,079,000 annually. The Commission finds this reduction meets the requirements of the Payphone docket orders. AT&T's petition to intervene is granted for the purposes requested.

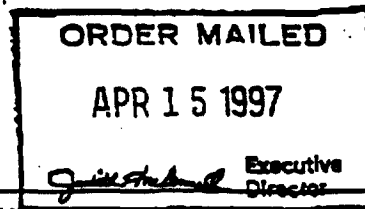
A party may file a petition for reconsideration of this Order within fifteen (15) days of the service of this Order. If this Order is mailed, service is complete upon mailing, and three (3) days may be added to the above time frame.

The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

McKee, Chr.; Seltsam, Com.; Wine, Com.

Dated: APR 15 1997



Judith McConnell
Executive Director

SGS